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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,423

10/31/2003

Ken G. Pomaranski

200209704-1

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07/24/2006

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EXAMINER

CHERRY, STEPHEN J

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/699,423	POMARANSKI ET AL.	
	Examiner	Art Unit	
	Stephen J. Cherry	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-23 is/are allowed.
- 6) ☒ Claim(s) 1,5-10 and 13-18 is/are rejected.
- 7) ☐ Claim(s) 2-4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10-31-2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims recite a group of actions performed by a computer, but these actions produce no tangible result; therefore, the claims are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the trademarked phrase as a claim limitation, I2C, renders the claim indefinite (see MPEP 2173.05(u)).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,199,179 to Kauffman et al.

Regarding claim 1, Kauffman teaches a computer system comprising:

- a system module having a first interface ('179, col. 9, line 46 with interfaces described at col. 7, line 58);
- a test module having a second interface configured to communicate with the first interface ('179, col. 28, line 36 to col. 29, line 30);
- a first cell having a first controller configured to communicate with the first interface and the second interface ('179, fig. 2, 202, and col. 28, line 46, "little brother"); and
- a second cell having a second controller configured to communicate with the first interface and the second interface ('179, fig. 2, 204, and col. 28, line 46, "little brother");

wherein the system module is configured to cause the test module to test the first cell subsequent to the second cell being allocated to a first instance of an operating system ('179, col. 28, line 35).

Regarding claim 5, in view of the above rejection of claim 1, Kauffman teaches a computer system of claim 1 wherein the system module is configured to cause the test module to test the first cell in response to accessing a list that identifies cells allocated to the first instance of the operating system ('179, col. 28, line 35 and col. 24, line 60).

Regarding claim 6, in view of the above rejection of claim 1, Kauffman teaches a computer system of claim 1 wherein the test module includes a diagnostic test, and

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wherein the test module causes the first cell to be tested using the diagnostic test ('179, col. 28, line 35).

Regarding claim 7, in view of the above rejection of claim 1, Kauffman teaches a computer system of claim 1 wherein the first cell includes a diagnostic test, and wherein the test module causes the first cell to be tested by initiating the diagnostic test ('179, col. 28, line 35).

Regarding claim 8, in view of the above rejection of claim 1, Kauffman teaches a computer system of claim 1 wherein the test module is configured to detect an error in response to testing the first cell, and wherein the test module is configured to cause remedial action associated with the error to be performed in response to detecting the error ('179, col. 28, line 35).

Regarding claim 9, in view of the above rejection of claim 1, Kauffman teaches a computer system of claim 1 wherein the second interface of the test module couples to the first controller of the first cell using a connection ('179, col. 7 line 54).

Regarding claim 10, in view of the above rejection of claim 1, Kauffman teaches a computer system of claim 1 wherein the first cell comprises a processing system ('179, fig. 2).

Regarding claim 13, in view of the above rejection of claim 1, Kauffman teaches a computer system of claim 1 wherein the system module is configured to allocate the first cell to a second instance of the operating system subsequent to the test module testing the first cell ('179, fig. 2, 202-204 allocated to operating system then continuous testing takes place col. 28, line 35).

Allowable Subject Matter

Claims 19-23 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 19 recites, "a first means for de-allocating the first cell from the operating system; a second means for allocating a second cell to the operating system subsequent to de-allocating the first cell from the operating system; and a third means external to the first cell for testing the first cell subsequent to the first cell being de-allocated from the operating system". This feature, in combination with additional claimed structure, overcomes prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 2-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 2 recites, "wherein the system module is configured to cause the first cell to be de-allocated from the first instance of the operating system prior to causing the

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test module to test the first cell". This feature, in combination with additional claimed structure, overcomes prior art of record.

Claim 4 recites, "wherein the system module is configured to cause the test module to test the first cell in response to accessing a list that identifies floating cells". This feature, in combination with additional claimed structure, overcomes prior art of record.

Response to Arguments

Applicant's arguments with respect to claims 1, 5-10, and 13-18 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SJC


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